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environment, substandard and unhealthy housing conditions, and significant wage violations related to Defendant Marin J. Corp.'s H-2A workers.

Under Sections 1188(g)(2) and 501.16(b) and (c), the Secretary is specifically authorized to seek injunctive relief in federal district court to ensure employer compliance with the terms and conditions of employment under the H-2A Program. As the statutes and regulations recognize, the health, safety, and welfare of these H-2A workers is a sufficient basis for injunctive relief.¹

As more fully explained in the Supporting Documents, the Secretary has satisfied each of the four (4) elements required for the issuance of injunctive relief. Specifically, the Supporting Documents conclusively demonstrate: (1) the Secretary has a substantial likelihood of prevailing on the merits, as there is substantial evidence Defendant Marin J. Corp. has violated multiple key provisions of the H-2A Program; (2) a significant risk of irreparable injury to H-2A workers exists in the form of adverse health consequences, including malnutrition, illnesses related to lack of hygiene, and an imminent risk of severe bodily injury or death; (3) the threatened injury to the Secretary, through the perpetuation of Defendant Marin J. Corp.'s illegal and substandard treatment of H-2A workers, outweighs any damages Defendant Marin J. Corp. may potentially suffer as a result of the proposed injunctive relief; and (4) enjoining Defendant Marin J. Corp. from improperly withholding H-2A worker wages, subjecting H-2A workers to intolerable working conditions, and housing H-2A workers in substandard accommodations would not create a result adverse to the public interest.

¹ The District of Arizona recently awarded almost the exact injunctive relief requested herein in *Acosta v. G Farms, LLC*, No. CV-17-01446-PHX-DLR (D. Ariz. May 19, 2017), a case involving both H-2A workers and a similar fact pattern. (A true and accurate copy of the *G Farms* Order is attached hereto as **Exhibit 2**.)

Given Defendant Marin J. Corp.'s ongoing mistreatment of its H-2A workers, and the risk of adverse health consequences related thereto, the Secretary requests a hearing to occur at the Court's earliest convenience. Pursuant to its obligations under Rule 65, counsel for the Secretary has attempted to contact and will continue to contact Defendant Marin J. Corp., or its legal representatives should they exist, as well as this Court, to establish a hearing time during which all necessary parties are available.

For the foregoing reasons, the Secretary respectfully requests this Court enter a Temporary Restraining Order and an Order to Show Cause for the Entry of a Preliminary Injunction against Defendant Marin J. Corp., which:

- a. Enjoins and restrains Defendant Marin J. Corp. from housing the H-2A workers in substandard and violative facilities, including the two (2) houses, the Budget Inn, and the Jail, and instead requiring Defendant Marin J. Corp. to provide, on an immediate and continuous basis, H-2A worker housing that fully complies with applicable statutory and regulatory standards;
- b. Enjoins and restrains Defendant Marin J. Corp. from failing to maintain accurate time and payroll records, and affirmatively requiring it to keep such records as required under the H-2A Program regulations;
- c. Requires Defendant Marin J. Corp. to pay the H-2A workers an hourly rate equal to the rate identified in its Temporary Employment Certifications, and for all hours worked;
- d. Enjoins and restrains Defendant Marin J. Corp. from prohibiting H-2A worker involvement in the ongoing DOL investigation and/or from retaliating against and/or threatening any H-2A worker or H-2A worker's family based upon their assistance in any such investigation; and

- e. Requires Defendant Marin J. Corp., within one week of entry of the requested Order, to allow a representative of the Secretary, in the presence of Jorge Marin, to read aloud, in both English and Spanish, and thereafter provide a written copy to each H-2A worker, the following statement:

You are protected by the H-2A visa statute and regulations and have the right to participate freely in the U.S. Department of Labor's investigation into your employer's pay practices. You have the right to speak freely with investigators or other officials from the Department of Labor. Your employer is prohibited from retaliating against you in any way because you spoke with the Department of Labor.

Usted está protegido por la Ley de H-2A y tiene el derecho de participar libremente en la investigación del Departamento de Trabajo. Usted tiene el derecho de hablar libremente con investigadores u otras personas del Departamento de Trabajo. La ley H-2A le prohíbe a su empleador tomar cualquier tipo de represalias contra de usted por ejercer sus derechos o hablar con el Departamento de Trabajo.

Respectfully submitted,

CHRISTINE Z. HERI
Regional Solicitor

H. ALICE JACKS
Associate Regional Solicitor

BOYCE N. RICHARDSON
Trial Attorney

/s/ Charles W. Gordon

CHARLES W. GORDON
Trial Attorney

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EXHIBIT 1

2. Prior to my employment with the WHD, I graduated from Hanover College in Hanover, Indiana with a Bachelor of Arts degree in Spanish. As a result, I am fluent in Spanish, and capable of reading, writing, and speaking the language.

3. Because of my education and experience with the Spanish language, the WHD hired me as a bilingual investigator.

4. Over the last ten (10) years, as part of my duties as a Wage and Hour Investigator (“WHI”), I conducted hundreds of Spanish-language employee interviews in Fair Labor Standards Act (“FLSA”) and non-immigrant temporary worker, or H-Visa Program, matters.

5. I am the Lead Investigator on the WHD investigation of Marin J. Corporation (“Marin J. Corp.”).

II. MARIN J. CORPORATION

6. On July 13, 2018, Norma Cervi, the District Director (“DD”) of the St. Louis District Office of WHD, contacted me regarding the potential need for a Wage and Hour investigation in Southeastern Missouri.

7. At that time, DD Cervi briefly described to me the allegations against Jorge Marin and Marin J. Corp., an entity engaged in the harvesting of watermelons, including possible violations of the federal non-immigrant temporary agricultural worker program (“H-2A Program”).

8. As a result of subsequent research, I came to understand Marin J. Corp. to be a Florida corporation, with its principal offices located in Avon Park, Florida, engaged in the interstate transportation of goods. Further, my research revealed that, while Marin J. Corp. conducts business in the State of Missouri, it is not presently, and has not previously been, registered with the Missouri Secretary of State.

9. In addition, I determined Marin J. Corp. filed two (2) Form ETA-9142A H-2A Applications for Temporary Employment Certification (“TEC”) (Case Nos. H-300-18102-843410 and H-300-18124-947696) with the United States Department of Labor (“DOL”) related to its 2018 harvesting operations in Kennett, Missouri. (True and accurate copies of Marin J. Corp.’s 2018 TECs for Case Nos. H-300-18102-843410 and H-300-18124-947696 are attached hereto as **Exhibit A** and **Exhibit B**, respectively.)

10. Marin J. Corp.’s TEC for Case No. H-300-18102-843410 sought certification for twenty-seven (27) H-2A workers from June 25, 2018 through August 17, 2018. According to the TEC, these H-2A workers were to be employed as Watermelon Harvesters, working thirty-six (36) hours per week at a rate of \$13.42 per hour. (**Ex. A**, TEC 843410, at 1, 3, 5.)

11. Marin J. Corp.’s TEC for Case No. H-300-18124-947696 sought certification for eighty (80) H-2A workers from June 25, 2018 through October 20, 2018 (collectively, w/ TEC 843410, the “H-2A Workers”). According to the TEC, these H-2A workers were to be employed as Watermelon, Cantaloupe, and Pumpkin Harvesters, working thirty-six (36) hours per week at a rate of \$13.42 per hour. (**Ex. B**, TEC 947696, at 1, 3, 5.)

III. THE WHD INVESTIGATION OF MARIN J. CORPORATION IN KENNETT, MISSOURI

12. At 10:50 a.m. on July 16, 2018, I received authorization from my superiors to proceed to Kennett, Missouri for the investigation of Marin J. Corp.

13. Within two (2) hours of receiving authorization from the WHD, I departed for Kennett, Missouri with WHI Carmen Soto-Martinez. During our drive, we received an email from our direct supervisor, James Yochim, the Assistant District Director (“ADD”) of WHD’s Springfield, Illinois Area Office, attaching a copy of a Technical Assistance Response Log (the “Log”) kept and maintained by the WHD, which we reviewed.

14. The Log detailed alleged wide-spread H-2A Program violations by Marin J. Corp., including failure to pay wages, excessive work hours, and failure to track hours worked, as well as a scheme to force workers to “kick back” certain monies paid to them by Marin J. Corp., inadequate housing and subsistence, and field sanitation violations.

15. WHI Soto-Martinez and I arrived in Kennett, Missouri in the late evening on July 16, 2018. Upon our arrival, we met with WHIs Christopher J. Huber and Daniel Baker at the Budget Inn, located at 215 South Ave, Kennett, Missouri 63857, where Marin J. Corp. was housing a significant number of its H-2A workforce.

16. As the Lead Investigator, I led a brief onsite coordination meeting before we split up and began to conduct independent visual inspections of the Budget Inn premises, as well as individual interviews of certain H-2A Workers and other relevant personnel.

A. The Budget Inn: Kennett, Missouri

17. The Budget Inn in Kennett, Missouri consists of eighteen (18) separate rooms in either one or two bed arrangements. Rooms with a single bed contain one (1) queen-sized mattress, and rooms with two (2) beds contain two (2) full-sized mattresses. Two (2) rooms measure twelve (12) feet by seventeen (17) feet (204 ft²) and the remaining sixteen (16) rooms measure twelve (12) feet by twelve (12) feet (144 ft²). (True and accurate copies of representative photographs of the Budget Inn premises taken during our inspection are attached hereto as **Exhibit C**.)

18. From June 28, 2018 through July 17, 2018, Marin J. Corp. rented between thirteen (13) and seventeen (17) rooms each night to house some of the H-2A Workers it employed under the TECs.

19. During my visual inspection of the Budget Inn premises, I observed multiple instances of four (4) or more H-2A Workers living in a single hotel room, including some rooms with as many as six (6). Multiple confidential witness interviews conducted between July 16, 2018 and July 19, 2018 (the “Interview Statements”), including witness interviews completed at the Budget Inn upon our arrival, confirm these findings.

20. According to the Interview Statements, the H-2A Workers frequently slept two (2) or more in each bed, with their remaining roommates on the floor. In certain instances, H-2A Workers would rotate between the beds and the floor to ensure equal access to mattresses.

B. Interview Statements: Unpaid Wages and Kick Backs

21. From July 16, 2018 through July 19, 2018, the WHD completed in excess of thirty (30) in-person Interview Statements of the H-2A Workers and other relevant personnel.

22. Although I only transcribed six (6) of the Interview Statements, as part of my duties as Lead Investigator, I reviewed every Interview Statement taken by WHIs Baker, Huber, and Soto-Martinez, all of whom are fluent in Spanish.

23. Within the Interview Statements, the H-2A Workers detailed hundreds of dollars in unreimbursed inbound travel expenditures, including food, hotels, Visa fees, and bus transportation.

24. In addition, multiple H-2A Workers referenced unreimbursed payments in excess of \$500 to Jorge Marin and other individuals allegedly designed to reimburse Marin J. Corp. for obtaining Visas and other travel documents.

25. Further, despite working almost twenty (20) days in a row post-arrival, numerous H-2A Workers stated they only received two (2) checks, one for approximately \$340 and another for approximately \$120.

26. According to the Interview Statements, while Marin J. Corp. allowed the H-2A Workers to keep the check for \$340, as reimbursement for three (3) days of work, it did not allow them to keep the second check for \$120. Instead, representatives of Marin J. Corp. drove a bus filled with H-2A Workers to a Bank of America located in Jonesboro, Arkansas. There, these representatives of Marin J. Corp. had the H-2A Workers sign and cash the checks, and then required the H-2A Workers to return the money.

27. During our investigation, we also observed Marin J. Corp.'s comprehensive failure to maintain records required under the H-2A Program, including days/hours worked, applicable rates of pay, earnings, and start/stop times.

C. Interview Statements: Daily Routine

28. Within the Interview Statements, the H-2A Workers describe a daily routine – Monday through Sunday – where they wake up between 5:00 and 6:00 a.m., board the bus to the fields between 6:00 and 7:00 a.m., and arrive at the fields between 7:00 and 8:00 a.m. They then work uninterrupted, with the exception of ten (10) to twenty (20) minute breaks for lunch and dinner, until 7:00 or 8:00 p.m.

29. Although a local catering company provides daily lunch and dinner in the fields, the H-2A Workers are responsible for purchasing their own breakfasts. The catering company charges \$6.50 per meal, and, since the H-2A Workers remain largely unpaid, many have run up significant bills.

D. Field Sanitation and Working Conditions

30. On July 17, 2018, we inspected the field sanitation and working conditions of certain H-2A Workers at the Jones & Jones Produce Field in Senath, Missouri. We obtained the location of the field during an earlier interview with an H-2A Worker completed the prior evening.

31. When we arrived at approximately 11:00 a.m., the temperature was 88 degrees with a heat index of in excess of 100 degrees, based upon readings from The Weather Channel iPhone application. At that time, there were between forty-two (42) and forty-eight (48) H-2A Workers in the field.

32. Upon our arrival, I observed a portable washing station, two mobile sanitation units, and a water cooler, but no single-use cups for water consumption. Instead, the H-2A Workers were drinking from a single, pre-used Gatorade bottle. (True and accurate copies of representative photographs of the Jones & Jones Produce Field taken during our inspection are attached hereto as **Exhibit D.**)

33. However, according to the Interview Statements, prior to our arrival, Marin J. Corp. rarely provided the H-2A Workers with mobile sanitation units and handwashing stations. Consequently, the H-2A Workers frequently relieved themselves in the fields, without washing their hands.

34. Beyond mobile sanitation units and handwashing stations, multiple Interview Statements reference Marin J. Corp.'s failure to provide adequate access to drinking water. As a result, between ten (10) to fifteen (15) H-2A Workers passed out from the heat due to dehydration.

35. In my experience, the absence of single-use cups significantly decreases total water consumption due to lack of access and concerns regarding hygiene.

E. House No. 1: 9346 State Hwy C

36. Through our investigation, we determined Jorge Marin owns a house located at 9346 State Highway C, Unit No. 11, Senath, Missouri 63876, which he uses to house H-2A Workers (the "Brick House").

37. I reviewed the Pre-Housing Inspection for the Brick House, which confirms the Foreign Labor Certification Program Coordinator approved the Brick House for a total capacity of sixteen (16) adults. (A true and accurate copy of the Pre-Housing Inspection Form ES-338 for the Brick House is attached hereto as **Exhibit E.**)

38. Consistent with the Pre-Housing Inspection, the Brick House contains four (4) “dormitory type” rooms measuring 324.61 ft², 141 ft², 186.12 ft², and 130 ft², for a total of 781.73 ft², or 48.86 ft² per occupant, as well as two (2) full bathrooms, and a kitchen.

39. On July 17, 2018, we inspected the Brick House. During our inspection, I observed a total of seventeen (17) people to be living there.

40. As part of our inspection of the Brick House, I observed significant piles of garbage/refuse both internally and externally, overflowing trashcans, multiple doors and windows missing screens, numerous holes in the drywall, exposed pipes/plumbing, exterior water infiltration into the interior, an absence of available toilet paper, beds in too close proximity to each other, and less than fifty (50) square feet of living space per occupant. (True and accurate copies of representative photographs of the Brick House taken during our inspection are attached hereto as **Exhibit F.**)

41. Further, while inspecting the kitchen at the Brick House, I found the fridge to be barely functional, resulting in inadequate food storage, and forcing the H-2A Workers to use the freezer to store perishable goods like milk.

42. Finally, the exterior of the Brick House was visibly infested with numerous, active mud dauber wasp nests, creating a significant risk of injury for the H-2A Worker occupants. (A true and accurate copy of a representative photograph of the mud dauber nests at the Brick House taken during our inspection is attached hereto as **Exhibit G.**)

F. House No. 2: 9348 State Hwy C

43. Through our investigation, we determined Jorge Marin owns a house located at 9348 State Highway C, Unit No. 16, Senath, Missouri 63876, which he uses to house H-2A Workers (the “Wood Frame House”).

44. I reviewed the Pre-Housing Inspection for the Wood Frame House, which confirms the Foreign Labor Certification Program Coordinator approved the Wood Frame House for a total capacity of eleven (11) adults. (A true and accurate copy of the Pre-Housing Inspection Form ES-338 for the Wood Frame House is attached hereto as **Exhibit H.**)

45. Consistent with the Pre-Housing Inspection, the Wood Frame House contains three (3) “dormitory type” rooms measuring 262.8 ft², 213.6 ft², and 61 ft², for a total of 537.40 ft², or 48.85 ft² per occupant, as well as one (1) full bathroom, and a kitchen.

46. On July 17, 2018, we inspected the Wood Frame House. During our inspection, I observed a total of eleven (11) people to be living there.

47. As part of our inspection of the Wood Frame House, I again observed significant piles of garbage/refuse both internally and externally, overflowing trashcans, beds in too close proximity to each other, less than fifty (50) square feet of living space per occupant, floors in inadequate repair, multiple doors and windows missing screens, standing water, an absence of laundry facilities, and no available toilet paper. (True and accurate copies of representative photographs of the Brick House taken during our inspection are attached hereto as **Exhibit I.**)

48. I further observed a continuous water leak in the bathroom originating from the toilet, resulting in substantial standing water. In certain instances, water had exited the bathroom and infiltrated beneath the laminate in the hallway, as well as portions of the carpet in an adjoining bedroom, creating the potential for mold and additional structural deterioration.

G. The Jail: 200 Slicer Street

49. Through our investigation, we discovered, in April 2018, Marin J. Corp. purchased the old Dunklin County, Missouri jail located at 200 Slicer Street, Kennett, Missouri 63857 (the “Jail”) for the purposes of housing H-2A Workers.

50. In the period between its use as a jail and its purchase by Marin J. Corp., the Kennett Jaycees used the Jail as the site of a local haunted house, leaving traces of red paint and red handprints throughout the building.

51. On July 17, 2018, the City of Kennett deemed the Jail fit for occupancy for sixty-two (62) adults, and the following day, Marin J. Corp. began to move male H-2A Workers into the facility from the Budget Inn.

52. On July 19, 2018, we inspected the Jail as part of our investigation of Marin J. Corp.

53. As part of our inspection of the Jail, I observed inadequate access to external light, extremely limited windows in the “cells,” broken “non-cell” windows, inadequate/non-existent personal storage for H-2A Workers, no drinking fountains or other access to water beyond bathroom sinks, only lukewarm water available throughout the facility, inadequate bathroom ventilation, an absence of laundry facilities, non-functional bathroom lights, leaking sinks, and a mattress on the floor. (True and accurate copies of representative photographs of the Jail taken during our inspection are attached hereto as **Exhibit J.**)

54. Moreover, I observed the former Jail kitchen to be unusable. Specifically, I found the sink, fridge, stove, oven, and other appliances to be completely inoperable. In fact, when we opened the fridge door, we discovered an old mattress. As a result, H-2A Workers cannot cook onsite at the Jail.

IV. THE 2015 WHD INVESTIGATION OF MARIN J. CORPORATION

55. In 2015, I assisted with an H-2A Program-related investigation of Marin J. Corp. covering the period of July 15, 2015 through August 28, 2015 (the “2015 Investigation”).

56. As part of the 2015 Investigation, WHD found Marin J. Corp. to have violated multiple provisions of the H-2A Program, including: (1) Housing Failed to Meet Safety and Health Requirements; (2) Failure to Reimburse Inbound Travel Expenditures; and (3) Unlawful Cost-Shifting of Visa Fees. (*See* Notice of Determination and H-2A Narrative, true and accurate copies of which are attached hereto as **Exhibit K** and **Exhibit L**, respectively.)


57. With respect to housing, WHD found four (4) violations in all six (6) of Marin J. Corp.’s trailers. (**Ex. L**, H-2A Narrative, at 2.)

58. On August 6, 2015, as part of the pre-final conference for the 2015 Investigation, WHI Pamela Frazee and I met with Jorge Marin. During this meeting, WHI Frazee discussed with Mr. Marin methods of resolving Marin J. Corp.’s outstanding housing violations, the illegality of cost-shifting expenses paid by H-2A workers in Mexico, and the necessity of providing accurate work contracts to H-2A workers, as I translated on her behalf.

59. Then, on August 12, 2015, WHD met with Mr. Marin to discuss his obligations as an H-2A Program Employer, including: (1) ensuring that no one in Mexico is illegally charging to obtain H-2A Visas; (2) meeting the safety and health requirements and regulations for the housing of the H-2A workers; (3) the importance of allowing H-2A workers access to laundry facilities; and (4) the importance of housing areas being free of debris, trash, rubbish, and garbage. At the conclusion of this meeting, Mr. Marin agreed to future compliance. (**Ex. L**, H-2A Narrative, at 10.)

60. On June 16, 2017, WHD sent Marin J. Corp. a Notice of Determination Assessing Civil Money Penalties in the amount of \$1,650.00. (Ex. K, Notice of Determination.)

FURTHER AFFIANT SAYETH NAUGHT.


WHL Lindsey Corona

Sworn to before me this 26 day of July, 2018.


Notary Public

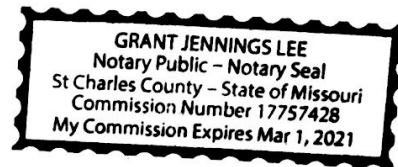


EXHIBIT A

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



Please read and review the filing instructions carefully before completing the Form ETA-9142A. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): *

H-2A

B. Temporary Need Information

1. Job Title * WATERMELON HARVESTING

2. SOC (ONET/OES) code *

45-2092

3. SOC (ONET/OES) occupation title *

Farmworkers and Laborers, Crop, Nursery, and Greenhouse

4. Is this a full-time position? *



Yes



No

Period of Intended Employment

5. Begin Date * 06/25/2018
(mm/dd/yyyy)

6. End Date * 08/17/2018
(mm/dd/yyyy)

7. Worker positions needed/basis for the visa classification supported by this application

27

Total Worker Positions Being Requested for Certification *

Basis for the visa classification supported by this application

(indicate the total workers in each applicable category based on the total workers identified above)

27

a. New employment *

0

d. New concurrent employment *

0

b. Continuation of previously approved employment *
without change with the same employer

0

e. Change in employer *

0

c. Change in previously approved employment *

0

f. Amended petition *

8. Nature of Temporary Need: (Choose only one of the standards) *



Seasonal



Peakload



One-Time Occurrence



Intermittent or Other Temporary Need

9. Statement of Temporary Need *

N/A

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
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U.S. Department of Labor



C. Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name *		
MARIN J. CORP.		
2. Trade name/Doing Business As (DBA), if applicable		
N/A		
3. Address 1 *		
2148 N. TORRINGTON RD.		
4. Address 2		
N/A		
5. City *	6. State *	7. Postal code *
AVON PARK	FL	33825
8. Country *	9. Province	
UNITED STATES OF AMERICA	N/A	
10. Telephone number *	11. Extension	
229-456-1897	N/A	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	
	115115	
14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
		2008
17. Type of employer application (choose only one box below) *		
<input type="checkbox"/> Individual Employer <input type="checkbox"/> Association – Sole Employer (H-2A only)		
<input checked="" type="checkbox"/> H-2A Labor Contractor or Job Contractor <input type="checkbox"/> Association – Joint Employer (H-2A only)		
<input type="checkbox"/> Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
MARIN	JORGE	N/A
4. Contact's job title *		
PRESIDENT		
5. Address 1 *		
2148 N. TORRINGTON RD.		
6. Address 2		
N/A		
7. City *	8. State *	9. Postal code *
Avon Park	FL	33852
10. Country *	11. Province	
UNITED STATES OF AMERICA	N/A	
12. Telephone number *	13. Extension	14. E-Mail address
229-456-1897	N/A	marincorp2015@outlook.com

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor**E. Attorney or Agent Information (If applicable)**

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Attorney or Agent's last (family) name § N/A	3. First (given) name § N/A	4. Middle name(s) § N/A		
5. Address 1 § N/A				
6. Address 2 N/A				
7. City § N/A	8. State § N/A	9. Postal code § N/A		
10. Country § N/A		11. Province N/A		
12. Telephone number § N/A	13. Extension N/A	14. E-Mail address N/A		
15. Law firm/Business name § N/A		16. Law firm/Business FEIN § N/A		
17. State Bar number (only if attorney) § N/A		18. State of highest court where attorney is in good standing (only if attorney) § N/A		
19. Name of the highest court where attorney is in good standing (only if attorney) § N/A				

F. Job Offer Information**a. Job Description**

1. Job Title * WATERMELON HARVESTING	
2. Number of hours of work per week Basic *: <u>36.00</u> Overtime: <u>0</u>	3. Hourly Work Schedule * A.M. (h:mm): <u>7</u> : <u>00</u> P.M. (h:mm): <u>1</u> : <u>00</u>
4. Does this position supervise the work of other employees? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	4a. If yes, number of employees worker will supervise (if applicable) § <u>0</u>
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. * SEE ADDENDUM The worker will perform job duties as assigned by supervisor. They will vary from time to time depending on crop ripening and weather. The watermelon harvesting is temporary and will last from June to August. Watermelon Hand Harvesting-In order to perform this kind of work, the worker must be able to walk down the field row and use a knife to hand cut ripe watermelons off the vine for harvesting. The watermelons are then loaded in a bus by forming part of an assembly line, in which the first worker bends down picks up the watermelon and it is passed on to consecutive workers by passing, catching, lifting, until it reaches the worker on the bus, who then sets it down and stacks them until the bus is considered full.	

OMB Approval 1205-0466
Expiration Date 05/31/2019H-2A Application for Temporary Employment Certification
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U.S. Department of Labor

G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) \$	
From: \$ 13 . 42 To (Optional): \$ 0 . 00		From: \$ 0 . 00 To (Optional): \$ 0 . 00	
2. Per: (Choose only one) * <input checked="" type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: \$ N/A			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. \$ ***SEE PIECE RATE ATTACHMENT***			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
Missouri Department of Economic Development Division of Workforce		
2. SWA job order identification number *	2a. Start date of SWA job order *	2b. End date of SWA job order * (In H-2A this date is 50% of contract period)
12484859	04/02/2018	07/21/2018
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement \$
4. N/A		From: N/A To: N/A
5. N/A		From: N/A To: N/A
6. Additional Recruitment Activities for H-2B program. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, and the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		
N/A		

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor**I. Declaration of Employer and Attorney/Agent**

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A or Appendix B will be considered incomplete and not accepted for processing by the ETA application processing center.

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A. §	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B. §	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name § N/A	2. First (given) name § N/A	3. Middle initial § N/A
4. Job Title § N/A		
5. Firm/Business name § N/A		
6. E-Mail address § N/A		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from 06/25/2018 to 08/17/2018.

Department of Labor, Office of Foreign Labor Certification

05/24/2018

Determination Date (date signed)

H-300-18102-843410

Case number

CERTIFIED

Case Status

Public Burden Statement (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Box 12-200 * 200 Constitution Ave., NW, * Washington, DC *. **Please do not send the completed application to this address.**

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION F.a.5: Additional Notes Regarding Job Duties

Watermelon Packing- The watermelon is transported by bus to the packing shed. Upon its arrival, it is unloaded by a group of workers and placed on a conveyor belt. The group of workers on the conveyor belt are responsible for sorting, labeling, and packing the watermelon in cardboard containers. While the workers are waiting on the next load of watermelons to arrive, they will be responsible for assembling cardboard containers.

The worker must be able to work outside for 6 hours a day in all kinds of weather including, but not limited to extreme cold and hot conditions, direct sunlight, and rain. Workers must have the required physical strength and endurance to repeat the process rapidly and skillfully involved in this type of work. Workers will perform prolonged walking, bending, stooping, reaching, pushing, pulling, lifting, and carrying 0-75 lbs. Due to the nature of this type of work, there will be a Probationary Period of six (6) days beginning on the first day of employment for the employee to acclimate to the job specifications listed under the Job Descriptions and Requirements. The worker will be given specified instructions as to how to properly perform the work specified in the Job Description and Requirements Section on the first day of work. Workers who do not perform the work as specified, may be terminated.

The employer will provide the tools necessary to perform the described job duties without charge to the worker. The employer will charge the worker for reasonable costs related to the workers refusal or negligent failure to return the tools or due to such workers willful damage or destruction of the tools.

ETA Form 9142A

Attachment: Page 5., G. Rate of Pay, Item 3.

Watermelon \$13.42 Hourly Rate

Piece Rates

Field Cutters	\$20.00 per bus paid to group
Field Loaders	\$80.00 per bus paid to group
Drivers	\$7.00 per round trip
Packing Shed Unloaders	\$20.00 per bus paid to group
Packing Shed Line Worker	\$60.00 per bus paid to group

EXHIBIT B

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



Please read and review the filing instructions carefully before completing the Form ETA-9142A. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): *

H-2A

B. Temporary Need Information

1. Job Title * WATERMELON, CANTELOUPE, AND PUMPKIN HARVESTING

2. SOC (ONET/OES) code *
45-2092

3. SOC (ONET/OES) occupation title *
Farmworkers and Laborers, Crop, Nursery, and Greenhouse

4. Is this a full-time position? *

☒ Yes ☐ No

Period of Intended Employment

5. Begin Date * 06/25/2018
(mm/dd/yyyy)

6. End Date * 10/20/2018
(mm/dd/yyyy)

7. Worker positions needed/basis for the visa classification supported by this application

Total Worker Positions Being Requested for Certification *

Basis for the visa classification supported by this application
(indicate the total workers in each applicable category based on the total workers identified above)

a. New employment *

d. New concurrent employment *

b. Continuation of previously approved employment *
without change with the same employer

e. Change in employer *

c. Change in previously approved employment *

f. Amended petition *

8. Nature of Temporary Need: (Choose only one of the standards) *

☒ Seasonal ☐ Peakload ☐ One-Time Occurrence ☐ Intermittent or Other Temporary Need

9. Statement of Temporary Need *

N/A

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor**C. Employer Information**

Important Note Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name *		
MARIN J. CORP.		
2. Trade name/Doing Business As (DBA), if applicable		
N/A		
3. Address 1 *		
2148 N. TORRINGTON RD.		
4. Address 2		
N/A		
5. City *	6. State *	7. Postal code *
AVON PARK	FL	33825
8. Country *	9. Province	
UNITED STATES OF AMERICA	N/A	
10. Telephone number *	11. Extension	
229-456-1897	N/A	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	
	115115	
14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
		2008
17. Type of employer application (choose only one box below) *		
<input type="checkbox"/> Individual Employer <input type="checkbox"/> Association – Sole Employer (H-2A only)		
<input checked="" type="checkbox"/> H-2A Labor Contractor or Job Contractor <input type="checkbox"/> Association – Joint Employer (H-2A only)		
<input type="checkbox"/> Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
MARIN	JORGE	N/A
4. Contact's job title *		
PRESIDENT		
5. Address 1 *		
2148 N. TORRINGTON RD.		
6. Address 2		
N/A		
7. City *	8. State *	9. Postal code *
AVON PARK	FL	33852
10. Country *	11. Province	
UNITED STATES OF AMERICA	N/A	
12. Telephone number *	13. Extension	14. E-Mail address
229-456-1897	N/A	marincorp2015@outlook.com

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor**E. Attorney or Agent Information (If applicable)**

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Attorney or Agent's last (family) name § N/A	3. First (given) name § N/A	4. Middle name(s) § N/A		
5. Address 1 § N/A				
6. Address 2 N/A				
7. City § N/A	8. State § N/A	9. Postal code § N/A		
10. Country § N/A		11. Province N/A		
12. Telephone number § N/A	13. Extension N/A	14. E-Mail address N/A		
15. Law firm/Business name § N/A		16. Law firm/Business FEIN § [REDACTED]		
17. State Bar number (only if attorney) § N/A		18. State of highest court where attorney is in good standing (only if attorney) § N/A		
19. Name of the highest court where attorney is in good standing (only if attorney) § N/A				

F. Job Offer Information**a. Job Description**

1. Job Title * WATERMELON, CANTELOUPE, AND	
2. Number of hours of work per week Basic *: <u>36.00</u> Overtime: <u>0</u>	3. Hourly Work Schedule * A.M. (h:mm): <u>7</u> : <u>00</u> P.M. (h:mm): <u>1</u> : <u>00</u>
4. Does this position supervise the work of other employees? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	4a. If yes, number of employees worker will supervise (if applicable) § <u>0</u>
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue</u> and <u>complete</u> description. *	
SEE ADDENDUM	
The worker will perform job duties as assigned by supervisor. They will vary from time to time depending on crop ripening and weather. The watermelon harvesting is temporary and will last from June to October.	
Watermelon Hand Harvesting-In order to perform this kind of work, the worker must be able to walk down the field row and use a knife to hand cut ripe watermelons off the vine for harvesting. The watermelons are then loaded in a bus by forming part of an assembly line, in which the first worker bends down picks up the watermelon and it is passed on to consecutive workers by passing, catching, lifting, until it reaches the worker on the bus, who then sets it down and stacks them until the bus is considered full.	

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
<input checked="" type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
N/A	N/A
2. Does the employer require a second U.S. diploma/degree? *	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
N/A	
3. Is training for the job opportunity required? *	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3a. If "Yes" in question 3, specify the number of months of training required §	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type)
0	N/A
4. Is employment experience required? *	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
4a. If "Yes" in question 4, specify the number of months of experience required §	4b. Indicate the occupation required §
0	verifiable experience in fruit or vegetable commercial harvest
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	
The worker must be responsible and consistent on the job. The worker must be able to lift 0-75 lbs. continuously throughout the day and work in all kinds of weather.	

c. Place of Employment Information

1. Worksite address 1 *	
N/A	
2. Address 2	
N/A	
3. City *	4. County *
N/A	N/A
5. State/District/Territory *	6. Postal code *
MO	N/A
7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? *	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	
State <input type="checkbox"/> Area Based On <input type="checkbox"/> Area 1. Missouri Other ***Please <input type="checkbox"/> harvesting itinerary***	

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) \$	
From: \$ 13 . 42 To (Optional): \$ 0 . 00		From: \$ 0 . 00 To (Optional): \$ 0 . 00	
2. Per: (Choose only one) * <input checked="" type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: \$ N/A			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. \$ SEE ADDENDUM			
"[i]f the worker's total pay for the pay period from piece rate earnings and hourly wages divided by his total hours worked during that pay period results in average hourly earnings of less than the guaranteed hourly rate, the worker will be			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
Missouri Department of Economic Development		
2. SWA job order identification number *	2a. Start date of SWA job order *	2b. End date of SWA job order * (In H-2A this date is 50% of contract period)
12490128	04/18/2018	09/02/2018
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement \$
4. N/A		From: N/A To: N/A
5. N/A		From: N/A To: N/A
6. Additional Recruitment Activities for H-2B program. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, <u>and</u> the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		
N/A		

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



I. Declaration of Employer and Attorney/Agent

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A or Appendix B will be considered incomplete and not accepted for processing by the ETA application processing center

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A . §	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B . §	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name § N/A	2. First (given) name § N/A	3. Middle initial § N/A
4. Job Title § N/A		
5. Firm/Business name § N/A		
6. E-Mail address § N/A		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from 06/25/2018 to 10/20/2018.

Certifying Officer

Department of Labor, Office of Foreign Labor Certification

06/08/2018

Determination Date (date signed)

H-300-18124-947696

Case number

CERTIFIED

Case Status

Public Burden Statement (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Box 12-200 * 200 Constitution Ave., NW, * Washington, DC *. **Please do not send the completed application to this address.**

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION F.a.5: Additional Notes Regarding Job Duties

Pumpkin Hand Harvesting-In order to perform this kind of work, the worker must be able to walk down the field row and use a pair of loppers to hand cut ripe pumpkins off the vine for harvesting. The pumpkins are then loaded in a bus by forming part of an assembly line, in which the first worker bends down picks up the watermelon and it is passed on to consecutive workers by passing, catching, lifting, until it reaches the worker on the bus, who then sets it down and stacks them until the bus is considered full.

Cantaloupe Hand Harvesting-In order to perform this kind of work, the worker must be able to walk down the field row and find the ripe cantaloupe based on texture and color. The ripe cantaloupes are picked off the vine by hand. The cantaloupes are then loaded in a bus by forming part of any assembly line, in which the first worker bends down picks up the watermelon and it is passed on to consecutive workers by passing, catching, lifting, until it reaches the worker on the bus, who then sets it down and stacks them until the bus is considered full.

Watermelon, Pumpkin, and Cantaloupe Packing- The watermelon, pumpkin, or cantaloupe is transported by bus to the packing shed. Upon its arrival, it is unloaded by a group of workers and placed on a conveyor belt. The group of workers on the conveyor belt are responsible for sorting, labeling, and packing the watermelons, pumpkins, and cantaloupes in cardboard containers. While the workers are waiting on the next load of watermelons to arrive, they will be responsible for assembling cardboard containers.

The worker must be able to work outside for 6 hours a day in all kinds of weather including, but not limited to extreme cold and hot conditions, direct sunlight, and rain. Workers must have the required physical strength and endurance to repeat the process rapidly and skillfully involved in this type of work. Workers will perform prolonged walking, bending, stooping, reaching, pushing, pulling, lifting, and carrying 0-75 lbs. Due to the nature of this type of work, there will be a Probationary Period of six (6) days beginning on the first day of employment for the employee to acclimate to the job specifications listed under the Job Descriptions and Requirements. The worker will be given specific instructions as to how to properly perform the work specified in the Job Description and Requirements Section on the first day of work. Workers who do not perform the work as specified, may be terminated.

The employer will provide the tools necessary to perform the described job duties without charge to the worker. The employer will charge the worker for reasonable costs related to the worker's refusal or negligent failure to return the tools or due to such worker's willful damage or destruction of the tools.

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION G.3: Additional Wage Information

provided build-up pay to the guaranteed minimum hourly rate

EXHIBIT C









EXHIBIT D









EXHIBIT E

Form Approved
Budget Bureau No. 44-R1358

U.S. Department of Labor, Employment and Training Administration U.S. TRAINING AND EMPLOYMENT SERVICE EMPLOYER FURNISHED HOUSING AND FACILITIES <i>(See Instructions on Reverse)</i>					1. EMPLOYER'S NAME AND ADDRESS Marin J. Corporation 2148 North Torrington Rd. Avon Park, FL 33825						
2. HOUSING LOCATION 4346 State Hwy C Unit #11 Senath, MO 63876					3. HOUSING DESCRIPTION Brick House						
4. SLEEP ROOMS (No. & Measure)		a. Dormitory Type				b. Family Type				ES USE ONLY	
		1	2	3	4	1	2	3	4		
Length	14'3	14'1	13'2	9'9						5. CAPACITY (Adults) 16	
Width	22'7	10	14'10	13'11						6. REGULATIONS COMPLIANCE (<i>"x" proper box</i>)	
Celling Height	8	8	8	8						Water	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Square Feet	324.61	141	186.12	130						Electricity	<input checked="" type="checkbox"/> <input type="checkbox"/>
No. of Rooms	1	1	1	1						Site	<input checked="" type="checkbox"/> <input type="checkbox"/>
No. of Beds, Single	6	3	4	1						Screening	<input checked="" type="checkbox"/> <input type="checkbox"/>
No. of Beds or Bunks, Double				1						Heating	<input checked="" type="checkbox"/> <input type="checkbox"/>
7. FACILITIES (Number of each)											
Flush Toilets	Privy	Urinals		Lav. or Washbasins		Showerheads					
2						2					
Bathtubs	Movable Bathtubs	Laundry machines		Fixed laundry tubs		Movable laundry tubs					
1											
Cook Stoves	Refrigerators	Garbage containers		First-aid Kits		Fire Extinguishers (No. & type)					
2	2	2		1		1 abc					
8. COMMENTS Large trash container for weekly pickup 3 smoke alarms Will take workers to local laundry mat weekly.											
9. EMPLOYER'S CERTIFICATION:											
I CERTIFY THAT I have reviewed the housing regulations of the U.S. Department of Labor, U.S. Training and Employment Service, and that the housing described herein <input checked="" type="checkbox"/> meets <input type="checkbox"/> does not meet such standards. I hereby authorize representatives of the State Employment Service office and/or Employment and Training Administration regional office to inspect the above housing at any reasonable time.											
Employer's Signature						Typed Name and Title				Date	
10. HOUSING INSPECTED BY: Anita Dixon											
Signature of Authorized Official						Typed Name and Title				Date	
<i>Joyce Hahn</i>						Joyce Hahn, FLC Program Coordinator					
11. APPROVAL: Housing approved for occupancy by workers recruited interstate.											
Signature of Authorized Official						Typed Name and Title				Date	
<i>Joyce Hahn</i>						Joyce Hahn, FLC Program Coordinator					

INSTRUCTIONS FOR COMPLETING FORM ES-338

- | | |
|---|--|
| ITEM 1: Self-Explanatory. | ITEM 7: Record number of each type of unit. |
| ITEM 2: Give directions for locating housing. | ITEM 8: Deficiencies, planned improvements, and other information about the housing should be recorded here. |
| ITEM 3: Describe housing and identify each separate unit. Barrack type of dormitory, apartments, single family dwellings, brick, etc. | ITEM 9: When the form is completed by an employer, this item must also be completed and signed by the employer or his agent. |
| ITEM 4: List measurements of each type of dormitory room; and measurements and items of units of same size and show number. | ITEM 10: To be completed by the official conducting the housing inspection. |
| ITEM 5: Capacity will be determined by local office of State ES agency. | ITEM 11: To be executed by the Employment Service official approving use of the housing by interstate workers. |
| ITEM 6: Check "Yes" or "No" for each item after consideration of Regulation requirements. | |

EXHIBIT F























EXHIBIT G











EXHIBIT H

Form Approved
Budget Bureau No. 44-R1358

U.S. Department of Labor, Employment and Training Administration U.S. TRAINING AND EMPLOYMENT SERVICE EMPLOYER FURNISHED HOUSING AND FACILITIES <i>(See Instructions on Reverse)</i>					1. EMPLOYER'S NAME AND ADDRESS Marin J. Corporation 2148 North Torrington Rd. Avon Park, FL 33825						
2. HOUSING LOCATION 9348 State Hwy C Unit #16 Senath, MO 63876					3. HOUSING DESCRIPTION Wood Frame House						
4. SLEEP ROOMS (No. & Measure)		a. Dormitory Type				b. Family Type				ES USE ONLY	
		1	2	3	4	1	2	3	4		
Length	21'2	17'8	10'10							5. CAPACITY (Adults) 11	
Width	12'4	12	6'10							6. REGULATIONS COMPLIANCE (“X” proper box)	
Ceiling Height	8	8	8							Water	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Square Feet	262.8	213.6	61							Electricity	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
No. of Rooms	1	1	1							Site	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
No. of Beds, Single	4	4	1							Screening	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
No. of Beds or Bunks, Double	1	1								Heating	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7. FACILITIES (Number of each)											
Flush Toilets 1	Privy		Urinals		Lav. or Washbasins		Showerheads 1				
Bathtubs 1	Movable Bathtubs		Laundry machines		Fixed laundry tubs		Movable laundry tubs				
Cook Stoves 1	Refrigerators 1		Garbage containers 1		First-aid Kits 1		Fire Extinguishers (No. & type) 1 abc				
8. COMMENTS											
Large trash container for weekly pickup 3 smoke alarms Will take workers to local laundry mat once a week.											
9. EMPLOYER'S CERTIFICATION:											
I CERTIFY THAT I have reviewed the housing regulations of the U.S. Department of Labor, U.S. Training and Employment Service, and that the housing described herein <input checked="" type="checkbox"/> meets <input type="checkbox"/> does not meet such standards. I hereby authorize representatives of the State Employment Service office and/or Employment and Training Administration regional office to inspect the above housing at any reasonable time.											
Employer's Signature					Typed Name and Title					Date	
10. HOUSING INSPECTED BY: Joyce Hahn											
Signature of Authorized Official <i>Joyce Hahn</i>					Typed Name and Title Joyce Hahn, Program Coordinator					Date	
10. APPROVAL: Housing approved for occupancy by workers recruited interstate.											
Signature of Authorized Official <i>Joyce Hahn</i>					Typed Name and Title Joyce Hahn, Program Coordinator					Date	

INSTRUCTIONS FOR COMPLETING FORM ES-338

- | | |
|---|--|
| ITEM 1: Self-Explanatory. | ITEM 7: Record number of each type of unit. |
| ITEM 2: Give directions for locating housing. | ITEM 8: Deficiencies, planned improvements, and other information about the housing should be recorded here. |
| ITEM 3: Describe housing and identify each separate unit. Barrack type of dormitory, apartments, single family dwellings, brick, etc. | ITEM 9: When the form is completed by an employer, this item must also be completed and signed by the employer or his agent. |
| ITEM 4: List measurements of each type of dormitory room; and measurements and items of units of same size and show number. | ITEM 10: To be completed by the official conducting the housing inspection. |
| ITEM 5: Capacity will be determined by local office of State ES agency. | ITEM 11: To be executed by the Employment Service official approving use of the housing by interstate workers. |
| ITEM 6: Check "Yes" or "No" for each item after consideration of Regulation requirements. | |

EXHIBIT I















EXHIBIT J





















EXHIBIT K

U.S. Department of Labor

Wage and Hour Division
135 North Pennsylvania Street, Room 700
Indianapolis, IN 46204
Tel & fax: 317-226-6801 & 317-226-5177



CERTIFIED MAIL RETURN RECEIPT REQUESTED: # 7005 3110 0002 8638 0682

June 16, 2017

Jorge Marin
Marin J Corporation
2148 North Torrington Road
Avon Park, FL 33825

Subject: Notice of Determination of Assessing Civil Money Penalties
Case Reference Number: 1767780 (CMP CASE ID 40840)

Dear Mr. Marin:

An investigation conducted by this office of Marin J Corporation, relating to the requirements applicable to the employment of H-2A and other workers under the Immigration and Nationality Act (INA) as amended by the Immigration Reform and Control Act (IRCA) (8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c) and 1186), in Owensville, IN, covering the period from 07/15/2015 to 08/28/2015, disclosed that the Employer Parties failed to comply with Section 218 of the INA and applicable regulations at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

As a consequence of these H-2A violations, civil money penalties are assessed in the amount of \$1,650.00. See 29 C.F.R. § 501.19. The specific violations and the civil money penalties associated with them are set forth in the attached matrix entitled *Summary of Violations*.

The full amount reflected above in the sum of \$1,650.00 is due and payable within 30 days to "Wage and Hour Division, U.S. Department of Labor." Payments by certified check or money order should be delivered or mailed to:

U.S. Department of Labor
Wage and Hour Division
P.O. Box 2638
Chicago, IL 60690

The dollar amount(s) reflected above constitute(s) a debt owed to the Federal government. This debt is subject to the assessment of interest, administrative cost charges and penalties in accordance with the Debt Collection Act of 1982, and departmental policies. Interest will be assessed at the Treasury Tax and Loan Account Rate on any balance outstanding from the date of this notice, accruing from the notice date. Administrative cost charges will be assessed to help

defray the Government's cost of collecting this debt. A penalty at the rate of 6% will be assessed on any portion of the debt remaining delinquent for more than 90 days. In order to avoid these charges, forward payments to the office listed above by the indicated due date.

The regulation at 29 C.F.R. § 501.20 provides for debarment from future labor certifications for a prescribed period of time for failure to pay the assessed civil money penalties by the indicated date.

APPEAL RIGHTS

Marin J Corporation has the right to request a hearing on this determination. Such a request must be dated, be typewritten or legibly written, specify the issue(s) stated in this notice of determination on which a hearing is requested, state the specific reason(s) why the requestor believes this determination to be in error, be signed by the requestor or by an authorized representative, and include the address at which the requestor or the authorized representative desires to receive further communications relating to the hearing request.

The request must be made and received within 30 days from the date of this letter by the **Indianapolis District Office, Wage and Hour Division, U.S. Department of Labor, located at 135 N. Pennsylvania Street, Room 700, Indianapolis, IN 46204.** Requests for a hearing may be made by certified mail or by means normally assuring overnight delivery.

If Marin J Corporation does not make a timely request, this determination will become a final order of the Secretary of Labor and may no longer be appealed. The timely filing of an administrative appeal stays the determination pending the outcome of the appeal proceedings.


When a request for a hearing is filed with the Administrator, the matter is referred to the Chief Administrative Law Judge. A formal hearing is then scheduled for a final determination with respect to the alleged violations. At such hearing you may, by yourself or through an attorney retained by you, present such witnesses, introduce such evidence and establish such facts as you believe will support your position.

The fact that the above sanctions and remedies are being imposed for the H-2A violations found at this time does not preclude the taking of other enforcement action as is deemed appropriate by the Department of Labor, or the additional assessments of back wages or civil money penalties for violations of the H-2A provisions found at some future time. Such other enforcement action may include the pursuit of unpaid wages, injunctive action, specific performance of the work contract, and denial or revocation of temporary alien agricultural labor certification.

Copies of Section 218 of INA and Regulations and 29 C.F.R. Part 501 and a link to 29 C.F.R. Part 655 are also enclosed for your reference and assistance.

Finally, we wish to point out that there may be a question as to the deductibility of civil money penalties paid as a business expense under the Internal Revenue Code. In this regard, you may wish to contact the Internal Revenue Service.

Sincerely,



Keith L. Hochstetler
Assistant District Director

Enclosures: Section 218, INA
Reg. 655 Link: https://www.dol.gov/whd/immigration/H2BFinalRule/H-2B_NPRM.pdf
Reg. Part 501
Summary of Violations

cc: Ann Margaret Pointer
Fisher & Phillips LLP
1075 Peachtree Street, Suite 3500
Atlanta, GA 30309

Regional Administrator
Wage and Hour Division
U.S. Department of Labor
230 South Dearborn Street, Room 530
Chicago, IL 60604

Associate Regional Solicitor
U.S. Department of Labor
230 South Dearborn Street, Room 844
Chicago, IL 60604

U.S. Department of Labor
Wage and Hour Division

Case ID: 1767780 (CMP CASE ID 40840)

Act: H-2A
EIN: 26-3477844
Name: Marin J Corporation

Employer address: 2148 North Torrington Road
Avon Park, FL 33825

Civil Money
Penalty Amount
Due: \$1,650.00

THIS SHEET MUST BE INCLUDED WITH PAYMENT

YOU MUST WRITE YOUR TAX ID ON YOUR CHECK

MAIL TO:

U.S. Department of Labor
Wage and Hour Division
P.O. Box 2638
Chicago, IL 60690

Amount paid: \$ _____
Date of payment: _____
Check number: _____
Signature: _____

- - Regional Office Copy - -

U.S. Department of Labor
Wage and Hour Division

Case ID: 1767780 (CMP CASE ID 40840)

Act: H-2A
EIN: 26-3477844
Name: Marin J Corporation

Employer address: 2148 North Torrington Road
Avon Park, FL 33825

Civil Money
Penalty Amount
Due: \$1,650.00

YOU MUST RETURN THIS SHEET TO THE ASSESSING OFFICE

MAIL TO:

U.S. Department of Labor
Wage and Hour Division
135 N. Pennsylvania Street, Room 700
Indianapolis, IN 46204

Amount paid: \$ _____
Date of payment: _____
Check number: _____
Signature: _____

- - District Office Copy - -

Summary of Violations

20 C.F.R. § 655.122(h)(2)	Failure to comply with return transportation and daily subsistence requirement(s). Specifically, the investigation disclosed failure to comply with inbound transportation requirements.	\$750.00
20 C.F.R. § 655.135(j)	The employer (or agent(s)) sought or received payment from the employees for an activity related to obtaining labor certification. Specifically, the investigation disclosed unlawful cost shifting.	\$900.00
Total Due for All Violations		\$1,650.00

EXHIBIT L

H2A NARRATIVE

Marin J. Corporation
FLC Jorge Marin Gomez
2148 North Torrington Road
Avon Park, Florida 33825
Cell: 863-381-5538

FEIN: #26-3477844

Farm Address: Chamberlain Farms, 5884 West 250 South, Owensville, Indiana 47665

EMPLOYER

Jorge Marin Gomez is the registered FLC #C-04-263092-A-17-R that expires 01/31/2017 (refer C-1). Jorge Marin Gomez is 100% owner of his business since 2008 which operates by the legal name of Marin J. Corporation (refer C-8). Mr. Marin also registered his business as FLC #04-477844-J-16-R that expires 10/31/2016 (refer C-2). Mr. Marin is 100% owner of Marin J. Corporation operating in the United States and has an employment relationship with H2A workers. There were no corresponding workers; however FLC Marin's father, Jorge Marin Perez (driver) and his brother, Robert Marin assisted FLC Jorge Marin Gomez with administrative work and driving. The FLC Jorge Marin Gomez is 100% owner and signed all documentation related to the ETA Job Order (refer C-7). FLC Marin worked for Chamberlain Farms to hand plant, cut, pick, sort, and pack watermelons in the field for AgEr Tim and Mia Chamberlain July 2015 to August 2015 (refer B-9h).

Immigration and Nationality Act 216 (INA): FLC Marin hires temporary, non-immigrant workers to perform agricultural labor on a seasonal nature under the H2A program. FLC Marin is subject to the provisions of CFR part 501. There were 40 workers employed - two workers quit the first week of employment (refer D-4). The remaining 38 workers performed farm work such as cutting, loading, unloading, sorting, and packing watermelons (refer B exhibits). Marin J. Corporation is an H-2A labor contractor that made applications to and was granted certification for the U. S. Department of Labor (DOL), Employment and Training Administration (ETA) to bring nonimmigrant alien agricultural workers into the United States for temporary agricultural labor and services. This investigation is limited to ETA case number #H-300-15152-564392 for Indiana (refer C-4).

SCOPE OF INVESTIGATION

The period of investigation for the H2A workers as shown on the job order is from 7/15/2015 to 8/28/2015 (refer C-4a).

PRIOR HISTORY

#1735704 St Louis MO due 12 ees (refer D-2c)	FY 2014 MSPA CMP - \$1,650 and \$1,584 OT BW
#1768575 Raleigh NC workers left FLC (refer D-2i).	FY 2015 H2A - No CMP recommended - H2A

#1554072 Atlanta GA FY 2009 MSPA CMP \$1,650 (refer D-2h)

MODO

MODO ID #62419 and #36635. Email Deputy Director for Strategic Enforcement Ty Cox on August 17, 2015. Case file associated. Unpaid CMP indicated (refer D-1a).

EXEMPTIONS

20 CFR §655.135(d): The exemption was not claimed by the employer or considered to be applicable (refer D-19b & D-19c).

REDACTED

H2A: FLC employed workers who were admitted to the United States on H2A work visas. The workers were paid at least the adverse wage rate of \$11.61 an hour (refer C-6o).

#1 H-2A Workers Given Preferential Treatment – 20 CFR 655.122(a) and 20 CFR 655.105(b) - no violations disclosed.

The ETA Work One advertisement for US workers erroneously indicated the work location was in Florida (refer C-7). Additionally, the job advertisement stated one month experience was required and a lifting requirement of 75 pounds; however no such requirements were made for H2A workers REDACTED FLC Marin said it was a clerical error made by the Indiana WorkOne (job location) which he had no control; and it was an oversight on his part not to make the 75 pound lifting requirement and one month experience for the H2A workers.

#2 Unlawful Rejection of US Workers – 20 CFR 655.135(d) - no violations disclosed

#4 Failure to Provide Housing – 20 CFR 655.122(d) (1) - no violations disclosed

#5 Housing Failed to Meet Safety and Health Requirements – 20 CFR 655.122(d) (1) (i) - violations disclosed.

The six trailers rented by FLC Marin were inspected by the Indiana Department of Health May 2015 (refer D-15). WHD inspections revealed four violations at all six trailers (refer D-17 photos). Local housing standards were used as the trailers were open to the public as rental/public accommodations. No CMPs calculated.

#6 Failed to Provide Housing at No Cost – 20 CFR 655.122(d) (1) - no violations disclosed

#7 Failed to Get Housing Pre-Occupancy Inspection – 20 CFR 655.104(d) (6) - no violations disclosed

#8 Family Housing Required But Not Provided – 20 CFR 655.122(d) (5) - no violations disclosed

#9 Unlawful Charges for Public Housing – 20 CFR 655.122(d) (4) - no violations disclosed

#10 Unlawful Deposits – Bedding/Other Items – 20 CFR 655.122(d) (4) - no violations disclosed

#11 Failed To Comply – Unavailable Housing Requirements – 20 CFR 655.122(d) (6). - no violations disclosed

#12 Failed To Comply – Workers' Compensation Requirements – 20 CFR 655.122(e) - no violations disclosed

#13 Failed To Comply – Employer Provided Items Requirements – 20 CFR 655.122(f) no violations disclosed

#14 Failed To Provide Meals or Kitchen Facilities – CFR 655.122(g) no violations disclosed

#15 Failed To Comply – Inbound Transportation Requirements – 20 CFR 655.122(h) (1)

Violation Period:	July 15, 2015 through 09/28/2015
Number of Violations:	32 H-2A workers
Proposed CMP:	Base CMP \$1500 with 50%
reduction to \$750.00	

FLC Marin provided transportation from Mexico to Indiana by bus/van at no cost to the workers (refer D-7k); however the FLC told workers he would reimburse them for the cost of their in bound expenses such as border crossing fee of \$6; and meals (\$12 day for two days); and hotel (\$10.83 day for two days).

Meals -On the two day trip from Mexico to the United States, workers paid for their meals and were told they would be reimbursed (refer D-20)

WHI requested proof of inbound expenses reimbursement during the initial conference on 8/3/2015. Employer could not provide as he had not reimbursed the workers yet and was not at the 50% completion point. When asked for proof repeatedly throughout the investigation, he was unable to provide.

Back Wages: Employer nor workers had receipts to show expenses. Interviews and FLC admission that workers paid for hotel rooms at 760 Mexican Pesos per night (\$43.32 USD) (see B exhibits); 4 workers shared a room, $43.32 / 4 = 10.83$ each per night for 2 nights. Interviews do not indicate that any worker traveled to the consulate early or had any additional hotel expenses other than the two nights traveling between Mexico and Indiana.

Interviews and FLC concurrence revealed that workers spent \$6 USD twice per day for 2 days while traveling to Indiana from Mexico. No further meal expenses were revealed.

A total of **\$1,653.12** was found due to 32 workers for inbound transportation subsistence expenses.

REDACTED



#16 Failed To Provide Transportation To/From Worksite – 20 CFR 655.122(h) (3) no violations disclosed

#17 Transportation Failed To Meet Safety Requirements – 20 CFR 655.122(h) (4) no violations disclosed

#18 Failed To Comply – Outbound Transportation Requirements – 20 CFR 655.122(h)(2) no violations disclosed

#19 Failed To Comply – $\frac{3}{4}$ Guarantee – 20 CFR 122(i) no violations disclosed

#20 Failed To Record Why Hours Worked Less than Hours Offered – 20 CFR 655.122 (j)(3) no violations disclosed

#22 Failure to Comply – Earnings Records Requirements – 20 CFR 655.122(j)(1) - violation disclosed.

Field Tally (piece rate) records, supporting summary payroll records, records show the nature and amount of the work performed;

Hours offered - yes

Worked each day by the worker - yes

Time work began and ended each day - yes

Rate of pay - yes

Worker's earning per pay period - No

Worker's home address - No

Amount of and reasons for any and all deductions taken from the worker's wages - yes

No CMP calculated (revision as of June 19, 2017)

#23 Failed to Make Required Records Available – 20 CFR 655.122(j)(2) - no violations disclosed.

FLC provided timesheets and payroll records as requested.

#24 Failed to Keep Records For 3 Years – 20 CFR 655.122(j)(4) *no violations disclosed*

#25 Failed to Comply – Pay Statement Requirements – 20 CFR 655.122(k) *no violations disclosed*

Worker's total earnings for the pay period - yes
Worker's hourly rate and/or piece rate of pay - yes
Hours of employment offered - yes
Hours actually worked by the worker - yes
Itemization of all deductions made from the workers' wages - yes
If piece rates are used, the units produced daily - yes
Beginning and ending dates of the pay period - Yes
Employer's name, address and EIN - Yes

No CMP calculated (revision as of June 19, 2017)

#26 Failed to Provide Copy of Work Contract – 20 CFR 655.122(q) *no violations disclosed*

#27 Failed to Pay Required Rate(s) of Pay – 20 CFR 655.122(l) *no violations disclosed*

#28 Unlawful Deductions – 20 CFR 655.122(p) *no violations disclosed*

#29 Failed to Comply - Frequency of Pay Requirements - 20CFR 655.122(m) *no violations disclosed*

#32 Employer Sought Waiver of Rights From Workers – 29 CFR 501.5 *no violations disclosed*

#33 Failure to Cooperate With Investigation – 29 CFR 501.7 *no violations disclosed*

#35 Employer Failed to Contact Prior US Workers – 20 CFR 655.153 *no violations disclosed*

FLC Marin was informed of his responsibility to document his attempt to hire US workers and his previous 2014 season migrant workers. FLC Marin said none of his 2014 workers from the previous season were available as they took jobs with other FLC crews in early Spring (April/May). FLC Jorge Marin said he started working July 2015 (refer D-18). Marin said he did try to contact former 2014 workers - about ten 2014 workers and no one opted to work for him in 2015 (refer D-19b). WH attempts to contact the 2014 workers was unsuccessful due to the lack of telephone numbers.

#36 Position Vacant Due to Strike, Layoff, Etc. – 20 CFR 655.135(b) *no violations disclosed*

#37 Layoff or Displacement of U.S. Workers – 20 CFR 655.135(g) *no violations disclosed*

#38 Failed to Accept SWA Referrals – 20 CFR 135(c) *no violations disclosed*

#39 Failed to Satisfy Requirements of the Job Order by not Stating Actual Terms and Conditions – 20 CFR 655.135(c), 655.154 no violations disclosed

#40 Failed to Follow all Applicable Federal, State and Local Laws and Regulations – 20 CFR 655.135(e) no violations disclosed

#41 Unlawful Cost-Shifting – 20 CFR 655.135(j)

Violation Period:

July 15, 2015 through 09/28/2015

Number of Violations:

9 H-2A workers

Proposed CMP:

Base CMP \$1500 with 40% reduction to

\$900

Back Wage computations were compiled from a hand written list from FLC/ER Jorge Marin (refer D-20).

FLC Marin said he paid for the VISA and provided copies of the payments made (refer D-7). Many workers statements indicate they paid 4000 pesos (\$228.04) for their VISA. Some workers were told would be reimbursed REDACTED

REDACTED Conversion from pesos to dollars was calculated March 2015. FLC Marin confirmed some workers did pay for their own transportation, VISA, and border fee; and said he reimbursed workers a few weeks later. FLC Marin provided a list of payments made to the H2A workers; however there is no proof the payments were received by the workers (refer D-20). FLC Marin did not have proof of payment to the workers; and international calls were not possible confirm reimbursement with any of the H2A workers.

REDACTED

REDACTED

#42 Failed to Contractually Forbid Cost-Shifting – 20 CFR 655.135(k) *no violations disclosed*

#44 Discriminate, Intimidate, Threaten, Etc. – 20 CFR 655.135(h) *no violations disclosed*

#48 H2ALC Provided Invalid “Fixed-Site” Info – 20 CFR 655.132(b)(1) *no violations disclosed*

#49 H2ALC Provided Invalid MSPA FLC Info – 20 CFR 655.132(b)(2) *no violations disclosed*

#51 Employer Failed to Post H-2A Poster – 20 CFR 655.135(l) *no violations disclosed*

DISPOSITION

A final conference was held on August 12, 2015 with FLC Jorge Marin and WHI Sam Rivera, WHI Chris Huber, WHI Frazee representing WHD (refer E-4).

Coverage was explained in detail. Mr. Marin agreed his business is subject to the H2A regulations and participates and has an approved application. The following issues were discussed in detail with the FLC on multiple occasions requesting information, documents, and explanations.

Concerns about alleged payments to his recruiters/agents in Mexico were communicated to Jorge Marin. FLC Marin said Jesus Barajas (863-273-8870) who works for FL Citrus does recruit H2A workers in Mexico and is paid \$50 per worker by FLC Marin; however there is no written contract. Marin said he was unaware of any payments made by the H2A workers for a job; and knew any such a payment would be illegal. FLC Marin said he did not know any recruiter named Moca or Moses or Moises
REDACTED

FLC Marin was informed of his responsibility to document his attempt to hire US workers and his previous 2014 season migrant workers.

FLC Marin was educated and informed of prohibited act of cost shifting.

Of the forty H-2A workers, two H2A workers left the first week which FLC Marin said he reported promptly to USCIS (refer D-4a). The checks for the two workers had a deduction that resulted in a check for zero amount. FLC Marin was asked to explain the deduction for Net Zero loans (refer D-4b & D-4c).

FLC Marin's brother, Robert Marin is not registered as an FLCE; and was reported as recruiting workers. FLC Marin said he will try for FLCE card; however his brother is undocumented; no application has been attempted.

Mr. Marin was informed of the importance of

- providing the information requested by WHD, advertising truthfully to both the US workers and the H2A workers as to the job requirements and the actual methods of payment;
- assure no one in Mexico is charging workers to obtain the job in the US;
- document FLC/FLCE attempts to hire US workers - such as contacting previous workers;
- not allowing, asking, permitting any future H2A workers to pay for the related expenses to or from the United States including meals, hotel expenses, travel expenses, visa or border crossing fees;
- meeting the safety and health requirements for the housing of the H2A workers;
- no deductions from wages without documentation;
- importance of workers access to laundry facilities as they are exposed to chemicals in the soil from working in the fields;
- having screen doors and window screens for ventilation and protection from entry into the housing;

- importance of housing area being free of debris, trash, rubbish, and garbage such as discarded appliances;
- providing a trash container with a tight fitting lid to avoid pests/rodents, etc.
- providing copies of the payroll (not just time sheets) to the AgEr at the end of the season to prove workers were paid
-

FLC Marin agreed to comply with all requirements of the H2A regulation in the future, and said he plans to use the program again next year, 2016.

CIVIL MONEY PENALTIES

#15 FTC - Inbound transportation \$750

#41 - Unlawful cost-shifting \$950

H2A CMP of \$1,650.00

PUBLICATIONS PROVIDED AND DISCUSSED:

Number	Quantity	Publication Name
FS 026	1	Immigration H2-A Reform & Control Act Fact Sheet
WH1491	1	Immigration H-2A Poster (English)
WH1491SP	1	Immigration H-2A Poster (Spanish)

RECOMMENDATION

REDACTED

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

WHI Frazee, June 17, 2016

REDACTED

[REDACTED]

REDACTED

WHI Frazee

ADD Hochstetler

REDACTED

EXHIBIT 2

1
2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 R Alexander Acosta,

10 Plaintiff,

11 v.

12 G Farms LLC, an Arizona LLC; Santiago
13 Gonzalez; LeFelco, a Wyoming Profit
14 Corporation; Aturo Valdez Castro; and
Raul Leon,

15 Defendants.
16
17

No. CV-17-01446-PHX-DLR

ORDER

18 The Court has reviewed the parties' Notice of Lodging of Stipulation and Proposed
19 Order and Stipulation Re: Entry of Preliminary Injunction. (Docs. 15, 15-2.) For good
20 cause shown,

21 **IT IS ORDERED** that the parties' Stipulation Re: Entry of Preliminary Injunction
22 is **GRANTED** and Plaintiff's Application for Temporary Restraining Order (Doc. 2) is
23 **DENIED** as moot.

24 Plaintiff R. Alexander Acosta, Secretary of Labor, has applied, pursuant to Rule
25 65 of the Federal Rules of Civil Procedure, for a temporary restraining order and a
26 preliminary injunction. The Secretary and Defendants G Farms, Santiago Gonzalez,
27 LeFelco, and Raul Leon ("Defendants") have stipulated and agreed to entry of a
28 preliminary injunction on the terms set forth below.

1 **INSOFAR** as Defendants failed to house their H-2A guest workers in the facilities
2 they sought and received approval for in their work order and instead, housed them in
3 buses, trailers and an open-air shed at the farm; and

4 **INSOFAR** as Defendants have also failed to keep track of the hours worked by
5 these H-2A workers during the workweek beginning April 22, 2017, and to pay them, as
6 agreed and required under governing regulations, on an hourly basis of \$10.95 an hour;
7 good cause having been shown, and in light of the parties' stipulation, it is hereby

8 **ORDERED** that a Preliminary Injunction be granted; and

9 It is **ORDERED** effective immediately that:

- 10 (1) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
11 Leon are enjoined and restrained from housing H-2A guest
12 workers in housing that does not fully comply with all applicable
13 State and federal housing standards;
- 14 (2) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
15 Leon are enjoined and restrained for the duration of the 2017
16 season from housing H-2A workers in the bus and trailer
17 facilities in which workers were housed from April 21, 2017
18 through May 4, 2017;
- 19 (3) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
20 Leon are ordered to house H-2A guest workers in Desert
21 Gardens Apartments for the remainder of the 2017 season and to
22 make said housing available for inspection by representatives of
23 the Department of Labor at their reasonable request. As part of
24 providing this housing, Defendants are ordered to implement the
25 specified housing requirements set forth in Exhibit A;
- 26 (4) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
27 Leon are enjoined and restrained from making any deductions
28 from H-2A workers' pay except as authorized by the statute or

1 regulations. This means that no deductions for food or catering
2 can be made while workers are housed in apartments that have
3 cooking facilities;

4 (5) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
5 Leon are required to provide, or ensure that the workers are
6 provided with, free and safe transportation to and from the
7 worksite, and to and from grocery stores as needed at least once
8 a week. This transportation may only be made by persons who
9 are authorized to transport the workers in vehicles that have been
10 inspected and certified by the Department of Labor.

11 (6) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
12 Leon are enjoined and restrained from failing to maintain
13 accurate time and payroll records of all hours worked by the H-
14 2A workers, ordered to keep all such records as are required
15 under the H-2A regulations, and provide to each worker a record
16 of their hours worked on a weekly basis for their review. Hours
17 worked includes time transporting workers to and from the fields
18 from the Desert Gardens;

19 (7) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul
20 Leon are enjoined and restrained from failing to pay all H-2A
21 workers no less than the hourly rate of \$10.95 as required under
22 the work order approving their application for visas for these
23 workers, including any additional wages that are currently
24 owing. Defendants may pay employees on a piece rate basis of:
25 \$0.70 per sack for clipping onions; \$0.35 per bag for grading
26 onions (with the number of bags to be divided among a group of
27 25 workers); \$0.14 per bag for field loading of onions (with the
28 number of bags to be divided among a group of 6 workers);

\$0.13 per bag for shed unloading of onions (with the number of bags to be divided among a group of 6 workers); \$10 per ton for field pitching of watermelons; and \$10 per ton for shed packing of watermelons; but they must tally the total hours worked on a weekly basis to determine if all workers were paid at a rate equivalent to \$10.95 for each hour worked. Where the piece rate earnings fall below the required wage rate, Defendants shall make up the difference;

(8) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul Leon are authorized to offer the H-2A workers work in excess of 8 hours per day/five days per week as stated in the work order through the end of the 2017 harvest, however, they may not pressure them to do so and workers must be free to refuse to work the additional hours;

(9) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul Leon are enjoined and restrained from threatening or coercing workers into making payments or kick-backs of any kind to themselves, their agents, associates or employees, and from threatening or coercing workers from exercising their rights to communicate fully and freely with the Department of Labor investigators without fear of retribution;

(10) Defendants G Farms, Santiago Gonzalez, LeFelco, and Raul Leon are ordered to do everything reasonably necessary to prevent any person, including their agents, associates and employees, and including their co-defendants including Defendant Arturo Valdez Castro from receiving payments from the workers, and/or from threatening or coercing the workers from exercising their rights to communicate fully and freely with

1 the Department of Labor investigators without fear of
2 retribution, including, but not limited to, disassociating all
3 business ties with any such person, cutting off any such person's
4 access to H-2A workers on their G Farms, and reporting any
5 such threats, intimidation or coercion to the Department of
6 Labor;

7 (11) Within one week of this Order, Defendants shall permit a
8 representative of the Secretary, in the presence of Defendants
9 Gonzalez, Castro, and Leon, to read aloud, in both English and
10 Spanish, and thereafter provide a written copy to each employee,
11 of this **Order**, as well as the following statement:

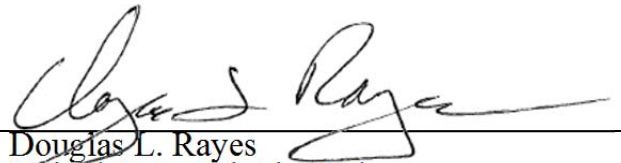
12 You are protected by the H-2A visa statute and regulations and
13 have the right to participate freely in the U.S. Department of
14 Labor's investigation into your employer's pay practices. You
15 have the right to speak freely with investigators or other official
16 from the Department of Labor. Your employer is prohibited
17 from retaliating against you in any way because you spoke with
18 the Department of Labor.

19
20 *Usted está protegido por la Ley de H-2A y tiene el*
21 *derecho de participar libremente en la investigación del*
22 *Departamento de Trabajo. Usted tiene el derecho de*
23 *hablar libremente con investigadores u otras personas del*
24 *Departamento de Trabajo. La ley H-2A le prohíbe a su*
25 *empleador tomar cualquier tipo de represalias contra de*
26 *usted por ejercer sus derechos o hablar con el*
27 *Departamento de Trabajo.*
28

1 (12) Defendants shall provide seven days written notice to the
2 Department of Labor before terminating any worker;

3 (13) This injunction sets forth the obligations of each individual
4 defendant. Each defendant must comply with its own obligations
5 under this order.

6 Dated this 19th day of May, 2017.

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11 Douglas L. Rayes
12 United States District Judge
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ATTACHMENT A

General Housing Requirements:

- Ensure living area is clean and sanitary which includes contracting individual(s) to maintain and clean kitchen, bathrooms, and common areas
- Adequate supply of hot and cold running water for cooking, bathing, and laundry
- Safe transportation provided to and from grocery store at no cost at least once per week
- No deductions or requests for payments can be made for meals
- Windows must be able to open at least halfway for ventilation purposes and must be equipped with screens
- Screen doors must be equipped with self-locking device.
- Must comply with all federal, state and local housing standards for the life of the Clearance Order
- Must fully comply with all requirements under OSHA 1910.142 Standards

Sleeping Quarters (Rooms):

- Each occupant must have their own individual bed with a mattress and bed frame that is at least 1 foot off the ground.
- Beds must be at least 3 feet apart from each other
- Each sleeping area must have at least 50 square feet of floor space per occupant
- All appropriate bedding must be provided, at the Employer's expense, including but not limited to sheets, covers, pillows, pillowcases, etc.
- Each room must have at least one ceiling type light fixture and at least one electrical outlet.
- Each occupant must have adequate storage space and hangers for their personal belongs (*i.e.*, dresser, etc.)

Kitchen/Dining Facilities:

- Kitchen/dining facilities should be separate from sleeping quarters.

- Basic kitchen supplies must be provided, at the Employer's expense, including but not limited to: pots/pans, silverware, plates, bowls, knives, cutting boards, and proper food storage capabilities.
- Kitchen is equipped with dining table and enough chairs for each occupant
- Proper garbage receptacle that is kept clean, sanitary and emptied no less than twice a week.

Laundry Facilities:

- Ensure each occupant can wash and dry their own clothes separate from sinks or bathtubs.
- If laundry facilities are provided by the apartment complex, the use of the washers and dryers has to be at no expense to the employees. Expenses incurred by fee-based washers and dryers must be refunded by the Employer.

Bathrooms/Bathing Facility:

- Provide adequate supply of toilet paper
- Each bathroom must be adequately ventilated
- Each bathroom must be adequately lighted
- Shower curtains must be provided by the Employer
- Must have adequate hot and cold water and adequate water pressure for each occupant.